

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

MATCH GROUP, INC., a corporation, and
MATCH GROUP, LLC, formerly known as
MATCH.COM, LLC, a limited liability
company,

Defendants.

Case No. 3:19-cv-02281-K

**DEFENDANTS MATCH GROUP, INC. AND MATCH GROUP, LLC’S MOTION FOR
LEAVE TO FILE NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendants Match Group, Inc. and Match Group, LLC move for leave to file a notice of supplemental authority. On January 8, 2024, after the parties completed summary judgment briefing, the U.S. Court of Appeals for the Fifth Circuit released its decision in *CFTC v. EOX Holdings, L.L.C.*, 90 F.4th 439 (5th Cir. 2024). The *EOX* decision held that the “[d]efendants did not have fair notice of the construction of [a rule] at the time they were engaging in the challenged conduct.” *Id.* at 443. This Fifth Circuit decision provides supplemental authority related to Defendants’ argument that the FTC failed to provide fair notice of the “simple mechanisms” standard under the Restore Online Shoppers’ Confidence Act, which the FTC unveiled for the first time in litigation and is attempting to use to hold Defendants liable. Dkt. 204 at 22–35.¹ Defendants respectfully seek leave to file the notice of supplemental authority attached hereto as Exhibit A.

[signature page to follow]

¹ The *EOX* decision is likewise relevant to the fair notice issues raised in Defendants’ Response Brief in Opposition to the FTC’s Motion for Summary Judgment, Dkt. 238 at 8–14.

Dated: February 5, 2024

/s/ Angela C. Zambrano

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CERTIFICATE OF CONFERENCE

On January 31, 2024, Tayler G. Bragg, counsel for Defendants, conferred with counsel for the FTC regarding whether the FTC opposes the relief requested in this Motion. On February 2, 2024, Reid Tepfer, counsel for the FTC, informed counsel for Defendants that the FTC opposes the relief requested in the Motion.

/s/ Angela C. Zambrano

Angela C. Zambrano

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2024, I caused true and correct copies of the foregoing to be served on all counsel of record in accordance with the Federal Rules of Civil Procedure and this Court's CM/ECF filing system.

/s/ Angela C. Zambrano

Angela C. Zambrano